

By: Eissler

H.B. No. 2236

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the administration of certain assessment instruments in  
3 public schools; providing a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 18.006(b), Education Code, is amended to  
6 read as follows:

7 (b) In addition to other factors determined to be  
8 appropriate by the commissioner, the accountability system must  
9 include consideration of:

10 (1) student performance on the end-of-course  
11 [~~secondary exit-level~~] assessment instruments required by Section  
12 39.023(c); and

13 (2) dropout rates, including dropout rates and diploma  
14 program completion rates for the grade levels served by the diploma  
15 program.

16 SECTION 2. Section 21.006(b), Education Code, is amended to  
17 read as follows:

18 (b) In addition to the reporting requirement under Section  
19 261.101, Family Code, the superintendent or director of a school  
20 district, regional education service center, or shared services  
21 arrangement shall notify the State Board for Educator Certification  
22 if the superintendent or director has reasonable cause to believe  
23 that:

24 (1) an educator employed by or seeking employment by

1 the district, service center, or shared services arrangement has a  
2 criminal record;

3 (2) an educator's employment at the district, service  
4 center, or shared services arrangement was terminated based on a  
5 determination that the educator:

6 (A) abused or otherwise committed an unlawful act  
7 with a student or minor;

8 (B) possessed, transferred, sold, or distributed  
9 a controlled substance, as defined by Chapter 481, Health and  
10 Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent  
11 amendments;

12 (C) illegally transferred, appropriated, or  
13 expended funds or other property of the district, service center,  
14 or shared services arrangement;

15 (D) attempted by fraudulent or unauthorized  
16 means to obtain or alter a professional certificate or license for  
17 the purpose of promotion or additional compensation; or

18 (E) committed a criminal offense or any part of a  
19 criminal offense on school property or at a school-sponsored event;  
20 [~~or~~]

21 (3) the educator resigned and reasonable evidence  
22 supports a recommendation by the superintendent or director to  
23 terminate the educator based on a determination that the educator  
24 engaged in misconduct described by Subdivision (2); or

25 (4) the educator engaged in conduct that violated the  
26 assessment instrument security procedures established under  
27 Section 39.0301.

1 SECTION 3. Section 25.005(b), Education Code, is amended to  
2 read as follows:

- 3 (b) A reciprocity agreement must:
- 4 (1) address procedures for:
- 5 (A) transferring student records;
- 6 (B) awarding credit for completed course work;
- 7 and
- 8 (C) permitting a student to satisfy the
- 9 requirements of Section 39.025 through successful performance on
- 10 comparable end-of-course or other exit-level assessment
- 11 instruments administered in another state; and
- 12 (2) include appropriate criteria developed by the
- 13 agency.

14 SECTION 4. Section 29.081(b), Education Code, is amended to  
15 read as follows:

- 16 (b) Each district shall provide accelerated instruction to
- 17 a student enrolled in the district who has taken an end-of-course
- 18 ~~[the secondary exit-level]~~ assessment instrument administered
- 19 under Section 39.023(c) and has not performed satisfactorily on the
- 20 assessment instrument ~~[each section]~~ or who is at risk of dropping
- 21 out of school.

22 SECTION 5. Section 29.087(f), Education Code, as amended by

23 Chapters 283 and 373, Acts of the 78th Legislature, Regular

24 Session, 2003, is reenacted and amended to read as follows:

- 25 (f) A student participating in a program authorized by this
- 26 section, other than a student ordered to participate under
- 27 Subsection (d)(1), must have taken the appropriate end-of-course

1 assessment instruments specified by Section 39.023(c) [~~39.023(a)~~  
2 ~~for grade 9~~] before entering the program and must take each  
3 appropriate end-of-course [~~grade level~~] assessment instrument  
4 administered during the period in which the student is enrolled in  
5 the program. Except for a student ordered to participate under  
6 Subsection (d)(1), a student participating in the program may not  
7 take the high school equivalency examination unless the student has  
8 taken the assessment instruments required by this subsection.

9 SECTION 6. Section 30.021(e), Education Code, is amended to  
10 read as follows:

11 (e) The school shall cooperate with public and private  
12 agencies and organizations serving students and other persons with  
13 visual impairments in the planning, development, and  
14 implementation of effective educational and rehabilitative service  
15 delivery systems associated with educating students with visual  
16 impairments. To maximize and make efficient use of state  
17 facilities, funding, and resources, the services provided in this  
18 area may include conducting a cooperative program with other  
19 agencies to serve students who have graduated from high school by  
20 completing all academic requirements applicable to students in  
21 regular education, excluding satisfactory performance under  
22 Section 39.025 [~~on the exit-level assessment instrument~~], who are  
23 younger than 22 years of age on September 1 of the school year and  
24 who have identified needs related to vocational training,  
25 independent living skills, orientation and mobility, social and  
26 leisure skills, compensatory skills, or remedial academic skills.

27 SECTION 7. Section 39.023, Education Code, is amended by

1 amending Subsections (a) and (c) and adding Subsections (c-1) and  
2 (c-2) to read as follows:

3 (a) The agency shall adopt or develop appropriate  
4 criterion-referenced assessment instruments designed to assess  
5 essential knowledge and skills in reading, writing, mathematics,  
6 social studies, and science. All students, except students  
7 assessed under Subsection (b) or (1) or exempted under Section  
8 39.027, shall be assessed in:

9 (1) mathematics, annually in grades three through  
10 seven without the aid of technology and in grade [~~grades~~] eight  
11 [~~through 11~~] with the aid of technology on any assessment  
12 instrument [~~instruments~~] that includes [~~include~~] algebra;

13 (2) reading, [~~annually~~] in grade [~~grades~~] three  
14 [~~through nine~~];

15 (3) reading and writing, including spelling and  
16 grammar, annually in grades four through eight [~~and seven~~];

17 (4) [~~English language arts, in grade 10,~~  
18 [~~5~~] social studies, in grades five and eight [~~and~~  
19 ~~10~~];

20 (5) [~~6~~] science, in grades four and [~~five,~~] eight [~~7~~  
21 ~~and 10~~]; and

22 (6) [~~7~~] any other subject and grade required by  
23 federal law.

24 (c) The agency shall also adopt end-of-course [~~secondary~~  
25 ~~exit-level~~] assessment instruments for secondary-level courses in  
26 Algebra I, Algebra II, geometry, biology, chemistry, physics,  
27 English I, English II, English III, world geography, world history,

1 and United States history. A school district shall comply with  
2 State Board of Education rules regarding administration of the  
3 assessment instruments listed in this subsection and shall adopt a  
4 policy that requires a student's performance on an end-of-course  
5 assessment instrument for a course listed in this subsection in  
6 which the student is enrolled to account for 15 percent of the  
7 student's final grade for the course [~~designed to be administered~~  
8 ~~to students in grade 11 to assess essential knowledge and skills in~~  
9 ~~mathematics, English language arts, social studies, and science.~~  
10 ~~The mathematics section must include at least Algebra I and~~  
11 ~~geometry with the aid of technology. The English language arts~~  
12 ~~section must include at least English III and must include the~~  
13 ~~assessment of essential knowledge and skills in writing. The social~~  
14 ~~studies section must include early American and United States~~  
15 ~~history. The science section must include at least biology and~~  
16 ~~integrated chemistry and physics. The assessment instruments must~~  
17 ~~be designed to assess a student's mastery of minimum skills~~  
18 ~~necessary for high school graduation and readiness to enroll in an~~  
19 ~~institution of higher education~~]. If a student is in a special  
20 education program under Subchapter A, Chapter 29, the student's  
21 admission, review, and dismissal committee shall determine whether  
22 any allowable modification is necessary in administering to the  
23 student an assessment instrument required under this subsection or  
24 whether the student should be exempted under Section 39.027(a)(2).  
25 The State Board of Education shall administer the assessment  
26 instruments. The State Board of Education shall adopt a schedule  
27 for the administration of end-of-course [~~secondary exit-level~~]

1 assessment instruments. Each student who did not perform  
2 satisfactorily on any end-of-course [~~secondary exit-level~~]  
3 assessment instrument when initially tested shall be given multiple  
4 opportunities to retake that assessment instrument. [~~A student who~~  
5 ~~performs at or above a level established by the Texas Higher~~  
6 ~~Education Coordinating Board on the secondary exit-level~~  
7 ~~assessment instruments is exempt from the requirements of Section~~  
8 ~~51.306.~~]

9 (c-1) The agency shall develop any assessment instrument  
10 required under this section in a manner that allows for the  
11 measurement of annual improvement in student achievement as  
12 required by Sections 39.034(c) and (d).

13 (c-2) The agency may adopt end-of-course assessment  
14 instruments for courses not listed in Subsection (c). A student's  
15 performance on an end-of-course assessment instrument adopted  
16 under this subsection is not subject to the performance  
17 requirements established under Subsection (c) or Section 39.025.

18 SECTION 8. Subchapter B, Chapter 39, Education Code, is  
19 amended by adding Sections 39.0233 and 39.0234 to read as follows:

20 Sec. 39.0233. OPTIONAL QUESTIONS MEASURING COLLEGE  
21 READINESS. The agency, in coordination with the Texas Higher  
22 Education Coordinating Board, shall adopt a series of optional  
23 questions to be included in an end-of-course assessment instrument  
24 administered under Section 39.023(c) to be used for purposes of  
25 Section 51.3062. The optional questions must be developed in a  
26 manner consistent with any college readiness standards adopted  
27 under Sections 39.113 and 51.3062. A student's performance on an

1 optional question adopted under this section may not be used to  
2 determine the student's performance on an end-of-course assessment  
3 instrument.

4 Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY  
5 COMPUTER. (a) The agency shall provide for assessment instruments  
6 required under Section 39.023 to be designed so that those  
7 assessment instruments can be administered by computer.

8 (b) Not later than September 1, 2008, each school district  
9 shall provide the agency with data regarding the ability of the  
10 district to administer to students assessment instruments required  
11 under Section 39.023 by computer. The agency shall compile the data  
12 provided by school districts under this subsection into a report  
13 recommending a plan and timeline for enabling each district in this  
14 state to administer the assessment instruments by computer. Not  
15 later than December 1, 2008, the agency shall deliver the report to  
16 each member of the legislature. This subsection expires June 1,  
17 2009.

18 SECTION 9. Section 39.025, Education Code, is amended to  
19 read as follows:

20 Sec. 39.025. SECONDARY-LEVEL [~~EXIT-LEVEL~~] PERFORMANCE  
21 REQUIRED. (a) The commissioner shall adopt rules requiring a  
22 student participating in the recommended or advanced high school  
23 program to be administered each end-of-course assessment  
24 instrument listed in Section 39.023(c) and requiring a student  
25 participating in the minimum high school program to be administered  
26 an end-of-course assessment instrument listed in Section 39.023(c)  
27 only for a course in which the student is enrolled and for which an

1 end-of-course assessment instrument is administered. A student is  
2 required to achieve a cumulative score that is at least equal to the  
3 product of the number of end-of-course assessment instruments  
4 administered to the student and 70, with each end-of-course  
5 assessment instrument scored on a scale of 100. For purposes of  
6 this subsection, a student's cumulative score is determined using  
7 the student's highest score on each end-of-course assessment  
8 instrument administered to the student. A student may not receive a  
9 high school diploma until the student has performed satisfactorily  
10 on the end-of-course [~~secondary exit-level~~] assessment instruments  
11 in the manner provided under this subsection [~~for English language~~  
12 ~~arts, mathematics, social studies, and science administered under~~  
13 ~~Section 39.023(c)~~]. This subsection does not require a student to  
14 demonstrate readiness to enroll in an institution of higher  
15 education.

16 (a-1) The commissioner by rule shall determine a method by  
17 which the following may be used as a factor in determining whether  
18 the student satisfies the requirements of Subsection (a), including  
19 the cumulative score requirement of that subsection:

20 (1) a student's satisfactory performance on an  
21 advanced placement test, international baccalaureate examination,  
22 a Scholastic Assessment Test (SAT) Subject Test, or another  
23 assessment instrument determined by the commissioner to be at least  
24 as rigorous as an end-of-course assessment instrument adopted under  
25 Section 39.023(c); or

26 (2) a student's satisfactory performance in a  
27 dual-credit course or other course in which a student earns college

1 credit.

2 (b) Each time an end-of-course [~~a secondary exit-level~~]  
3 assessment instrument is administered, a student who has not been  
4 given a high school diploma because of a failure to perform  
5 satisfactorily on the assessment instrument [~~for that subject area~~]  
6 may retake the assessment instrument.

7 (c) A student who has been denied a high school diploma  
8 under this section [~~Subsections (a) and (b)~~] and who subsequently  
9 performs at the level necessary to comply with the requirements of  
10 this section [~~satisfactorily on each secondary exit-level~~  
11 ~~assessment instrument~~] shall be issued a high school diploma.

12 (d) Notwithstanding Subsection (a), the commissioner by  
13 rule shall adopt one or more alternative nationally recognized norm  
14 referenced assessment instruments under this section to administer  
15 to a student to qualify for a high school diploma if the student  
16 enrolls after January 1 of the school year in which the student is  
17 otherwise eligible to graduate:

18 (1) for the first time in a public school in this  
19 state; or

20 (2) after an absence of at least four years from any  
21 public school in this state.

22 (e) The commissioner shall establish a required performance  
23 level for an assessment instrument adopted under Subsection (d)  
24 that is at least as rigorous as the performance level required to be  
25 met under Subsection (a) [~~for the secondary exit-level assessment~~  
26 ~~instrument for the same subject~~].

27 (f) The commissioner shall by rule adopt a transition plan

1 to implement the amendments made by \_\_.B. No. \_\_, Acts of the 80th  
2 Legislature, Regular Session, 2007, to this section and Sections  
3 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the  
4 end-of-course assessment instruments adopted under Section  
5 39.023(c) to be administered beginning with students entering the  
6 ninth grade during the 2009-2010 school year. During the period  
7 under which the transition to end-of-course assessment instruments  
8 is made:

9 (1) for students entering a grade above the ninth  
10 grade during the 2009-2010 school year, the commissioner shall  
11 retain, administer, and use for campus and district ratings under  
12 Subchapter D the assessment instruments required by Section  
13 39.023(a) or (c), as that section existed before amendment by \_\_.B.  
14 No. \_\_, Acts of the 80th Legislature, Regular Session, 2007; and

15 (2) the agency may defer releasing assessment  
16 instrument questions and answer keys as required by Section  
17 39.023(e) to the extent necessary to develop additional assessment  
18 instruments.

19 (g) Rules adopted under Subsection (f) must require that  
20 each student who will be subject to the requirements of Subsection  
21 (a) is entitled to notice of the specific requirements applicable  
22 to the student. Notice under this subsection must be provided not  
23 later than the date the student enters the ninth grade. Subsection  
24 (f) and this subsection expire September 1, 2013.

25 SECTION 10. Subchapter B, Chapter 39, Education Code, is  
26 amended by adding Section 39.0261 to read as follows:

27 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In

1 addition to the assessment instruments otherwise authorized or  
2 required by this subchapter:

3 (1) each school year and at state cost, a school  
4 district shall administer to students in the spring of the eighth  
5 grade an established, valid, reliable, and nationally  
6 norm-referenced preliminary college preparation assessment  
7 instrument for the purpose of diagnosing the academic strengths and  
8 deficiencies of students before entrance into high school;

9 (2) each school year and at state cost, a school  
10 district shall administer to students in the 10th grade the  
11 Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/  
12 NMSQT) sponsored by the College Board and Educational Testing  
13 Service and the National Merit Scholarship Corporation; and

14 (3) high school students in the spring of the 11th  
15 grade or during the 12th grade may select and take once, at state  
16 cost, one of the valid, reliable, and nationally norm-referenced  
17 assessment instruments used by colleges and universities as part of  
18 their undergraduate admissions processes.

19 (b) The agency shall:

20 (1) select and approve vendors of the specific  
21 assessment instruments administered under this section; and

22 (2) pay all fees associated with the administration of  
23 the assessment instrument from funds allotted under the Foundation  
24 School Program, and the commissioner shall reduce the total amount  
25 of state funds allocated to each district from any source in the  
26 same manner described for a reduction in allotments under Section  
27 42.253.

1       (c) The agency shall ensure that vendors are not paid under  
2 Subsection (b) for the administration of an assessment instrument  
3 to a student to whom the assessment instrument is not actually  
4 administered. The agency may comply with this subsection by any  
5 reasonable means, including by creating a refund system under which  
6 a vendor returns any payment made for a student who registered for  
7 the administration of an assessment instrument but did not appear  
8 for the administration.

9       (d) A vendor that administers an assessment instrument for a  
10 district under this section shall report the results of the  
11 assessment instrument to the agency. The agency shall:

12             (1) include a student's results on the assessment  
13 instrument in the electronic student records system established  
14 under Section 7.010; and

15             (2) ensure that a student and the student's parent  
16 receive a report of the student's results on the assessment  
17 instrument.

18       (e) Subsection (a)(3) does not prohibit a high school  
19 student in the spring of the 11th grade or during the 12th grade  
20 from selecting and taking, at the student's own expense, one of the  
21 valid, reliable, and nationally norm-referenced assessment  
22 instruments used by colleges and universities as part of their  
23 undergraduate admissions processes more than once.

24       SECTION 11. Subchapter B, Chapter 39, Education Code, is  
25 amended by adding Sections 39.0301, 39.0302, and 39.0303 to read as  
26 follows:

27       Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT

1 INSTRUMENTS. (a) The commissioner:

2 (1) shall establish procedures for the administration  
3 of assessment instruments adopted or developed under Section  
4 39.023, including procedures designed to ensure the security of the  
5 assessment instruments; and

6 (2) may establish record retention requirements for  
7 school district records related to the security of assessment  
8 instruments.

9 (b) The commissioner may develop and implement statistical  
10 methods and standards for identifying potential violations of  
11 procedures established under Subsection (a) to ensure the security  
12 of assessment instruments adopted or developed under Section  
13 39.023. In developing the statistical methods and standards, the  
14 commissioner may include indicators of:

15 (1) potential violations that are monitored annually;  
16 and

17 (2) patterns of inappropriate assessment practices  
18 that occur over time.

19 (c) The commissioner may establish one or more advisory  
20 committees to advise the commissioner and agency regarding the  
21 monitoring of assessment practices and the use of statistical  
22 methods and standards for identifying potential violations of  
23 assessment instrument security, including standards to be  
24 established by the commissioner for selecting school districts for  
25 investigation for a potential assessment security violation under  
26 Subsection (e). The commissioner may not appoint an agency  
27 employee to an advisory committee established under this

1 subsection.

2 (d) Any document created for the deliberation of an advisory  
3 committee established under Subsection (c) or any recommendation of  
4 such a committee is confidential and not subject to disclosure  
5 under Chapter 552, Government Code. Except as provided by  
6 Subsection (e), the statistical methods and standards adopted under  
7 this section and the results of applying those methods and  
8 standards are confidential and not subject to disclosure under  
9 Chapter 552, Government Code.

10 (e) The agency may conduct an investigation of a school  
11 district for a potential violation of assessment instrument  
12 security in accordance with the standards described by Subsection  
13 (c). Each school year, after completing all investigations of  
14 school districts selected for investigation, the agency shall  
15 disclose the identity of each district selected for investigation  
16 and the statistical methods and standards used to select the  
17 district.

18 (f) At any time, the commissioner may authorize the audit of  
19 a random sample of school districts to determine the compliance of  
20 the districts with procedures established under Subsection (a).  
21 The identity of each school district selected for audit under this  
22 subsection is confidential and not subject to disclosure under  
23 Chapter 552, Government Code, except that the agency shall disclose  
24 the identity of each district after completion of the audit.

25 Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency  
26 investigation or audit of a school district under Section  
27 39.0301(e) or (f), an accreditation investigation under Section

1 39.075(a)(8), or during an investigation by the State Board for  
2 Educator Certification of an educator for an alleged violation of  
3 an assessment instrument security procedure established under  
4 Section 39.0301(a), the commissioner may issue a subpoena to compel  
5 the attendance of a relevant witness or the production, for  
6 inspection or copying, of relevant evidence that is located in this  
7 state.

8 (b) A subpoena may be served personally or by certified  
9 mail.

10 (c) If a person fails to comply with a subpoena, the  
11 commissioner, acting through the attorney general, may file suit to  
12 enforce the subpoena in a district court in this state. On finding  
13 that good cause exists for issuing the subpoena, the court shall  
14 order the person to comply with the subpoena. The court may punish  
15 a person who fails to obey the court order.

16 (d) All information and materials subpoenaed or compiled in  
17 connection with an investigation or audit described by Subsection  
18 (a):

19 (1) are confidential and not subject to disclosure  
20 under Chapter 552, Government Code; and

21 (2) are not subject to disclosure, discovery,  
22 subpoena, or other means of legal compulsion for release to any  
23 person other than:

24 (A) the commissioner or the State Board for  
25 Educator Certification, as applicable;

26 (B) agency employees or agents involved in the  
27 investigation, as applicable; and

1                    (C) the office of the attorney general, the state  
2 auditor's office, and law enforcement agencies.

3                    Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL  
4 PENALTY. (a) A person commits an offense if:

5                    (1) the person discloses the contents of any portion  
6 of a secure assessment instrument developed or administered under  
7 this subchapter, including the answer to any item in the assessment  
8 instrument; and

9                    (2) the disclosure affects or is likely to affect the  
10 individual performance of one or more students on the assessment  
11 instrument.

12                    (b) An offense under this section is a Class C misdemeanor.

13                    SECTION 12. Section 39.034(d), Education Code, is amended  
14 to read as follows:

15                    (d) The agency shall determine the necessary annual  
16 improvement required each year for a student to be prepared to  
17 perform satisfactorily on [pass] the end-of-course assessment  
18 instruments [exit-level assessment instrument] required under this  
19 subchapter for graduation. The agency shall report the necessary  
20 annual improvement required to the district. Each year, the report  
21 must state whether the student fell below, met, or exceeded the  
22 necessary target for improvement.

23                    SECTION 13. Section 39.051(b), Education Code, is amended  
24 to read as follows:

25                    (b) Performance on the indicators adopted under this  
26 section shall be compared to state-established standards. The  
27 degree of change from one school year to the next in performance on

1 each indicator adopted under this section shall also be considered.  
2 The indicators must be based on information that is disaggregated  
3 by race, ethnicity, gender, and socioeconomic status and must  
4 include:

5 (1) the results of assessment instruments required  
6 under Sections 39.023(a), (c), and (l), aggregated by grade level  
7 and subject area;

8 (2) dropout rates, including dropout rates and  
9 district completion rates for grade levels 9 through 12, computed  
10 in accordance with standards and definitions adopted by the  
11 National Center for Education Statistics of the United States  
12 Department of Education;

13 (3) high school graduation rates, computed in  
14 accordance with standards and definitions adopted in compliance  
15 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

16 (4) student attendance rates;

17 (5) the percentage of graduating students who attain  
18 scores on the optional questions developed for end-of-course  
19 [secondary exit-level] assessment instruments under Section  
20 39.0233 [required under Subchapter B] that are equivalent to a  
21 passing score on the assessment instrument required under Section  
22 51.3062;

23 (6) the percentage of graduating students who meet the  
24 course requirements established for the recommended high school  
25 program by State Board of Education rule;

26 (7) the results of the Scholastic Assessment Test  
27 (SAT), the American College Test (ACT), articulated postsecondary

1 degree programs described by Section 61.852, and certified  
2 workforce training programs described by Chapter 311, Labor Code;

3 (8) the percentage of students, aggregated by grade  
4 level, provided accelerated instruction under Section 28.0211(c),  
5 the results of assessments administered under that section, the  
6 percentage of students promoted through the grade placement  
7 committee process under Section 28.0211, the subject of the  
8 assessment instrument on which each student failed to perform  
9 satisfactorily, and the performance of those students in the school  
10 year following that promotion on the assessment instruments  
11 required under Section 39.023;

12 (9) for students who have failed to perform  
13 satisfactorily on an assessment instrument required under Section  
14 39.023(a) or (c), the numerical progress of those students grouped  
15 by percentage on subsequent assessment instruments required under  
16 those sections, aggregated by grade level and subject area;

17 (10) the percentage of students exempted, by exemption  
18 category, from the assessment program generally applicable under  
19 this chapter;

20 (11) the percentage of students of limited English  
21 proficiency exempted from the administration of an assessment  
22 instrument under Sections 39.027(a)(3) and (4);

23 (12) the percentage of students in a special education  
24 program under Subchapter A, Chapter 29, assessed through assessment  
25 instruments developed or adopted under Section 39.023(b);

26 (13) the measure of progress toward preparation for  
27 postsecondary success; and

1           (14) the measure of progress toward dual language  
2 proficiency under Section 39.034(b), for students of limited  
3 English proficiency, as defined by Section 29.052.

4           SECTION 14. Section 39.075(a), Education Code, is amended  
5 to read as follows:

6           (a) The commissioner shall authorize special accreditation  
7 investigations to be conducted:

8           (1) when excessive numbers of absences of students  
9 eligible to be tested on state assessment instruments are  
10 determined;

11           (2) when excessive numbers of allowable exemptions  
12 from the required state assessment instruments are determined;

13           (3) in response to complaints submitted to the agency  
14 with respect to alleged violations of civil rights or other  
15 requirements imposed on the state by federal law or court order;

16           (4) in response to established compliance reviews of  
17 the district's financial accounting practices and state and federal  
18 program requirements;

19           (5) when extraordinary numbers of student placements  
20 in disciplinary alternative education programs, other than  
21 placements under Sections 37.006 and 37.007, are determined;

22           (6) in response to an allegation involving a conflict  
23 between members of the board of trustees or between the board and  
24 the district administration if it appears that the conflict  
25 involves a violation of a role or duty of the board members or the  
26 administration clearly defined by this code;

27           (7) when excessive numbers of students in special

1 education programs under Subchapter A, Chapter 29, are assessed  
2 through assessment instruments developed or adopted under Section  
3 39.023(b); ~~[or]~~

4 (8) in response to an allegation regarding or an  
5 analysis using a statistical method result indicating a possible  
6 violation of an assessment instrument security procedure  
7 established under Section 39.0301, including for the purpose of  
8 investigating or auditing a school district under that section; or

9 (9) ~~[(8)]~~ as the commissioner otherwise determines  
10 necessary.

11 SECTION 15. Section 51.3062(q), Education Code, is amended  
12 to read as follows:

13 (q) A student who has achieved scores ~~[a score]~~ set by the  
14 board on the optional questions developed for end-of-course  
15 assessment instruments ~~[an exit-level assessment instrument~~  
16 ~~required]~~ under Section 39.0233 ~~[39.023]~~ is exempt from the  
17 requirements of this section. The exemption is effective for the  
18 three-year period following the date a student takes the last  
19 assessment instrument for purposes of this section and achieves the  
20 standard set by the board. This subsection does not apply during  
21 any period for which the board designates the optional questions  
22 developed for end-of-course assessment instruments ~~[exit-level~~  
23 ~~assessment instrument required]~~ under Section 39.0233 ~~[39.023]~~ as  
24 the primary assessment instrument under this section, except that  
25 the three-year period described by this subsection remains in  
26 effect for students who qualify for an exemption under this  
27 subsection ~~[section]~~ before that period.

1 SECTION 16. Section 39.023(j), Education Code, is repealed.

2 SECTION 17. A reference in the Education Code to an  
3 end-of-course assessment instrument administered under Section  
4 39.023(c), Education Code, includes an exit-level assessment  
5 instrument administered under that section as provided by Section  
6 39.025(f), Education Code, as added by this Act.

7 SECTION 18. (a) Except as otherwise provided by this Act,  
8 this Act applies beginning with the 2007-2008 school year.

9 (b) Beginning with the 2007-2008 school year, the  
10 commissioner of education may conduct random audits as authorized  
11 under Section 39.0301(f), Education Code, as added by this Act.  
12 Beginning with the 2008-2009 school year, the commissioner of  
13 education may conduct accreditation investigations as authorized  
14 under Section 39.075(a)(8), Education Code, as added by this Act.

15 (c) During the 2008-2009 school year, the commissioner of  
16 education may use the statistical methods and standards established  
17 under Section 39.0301(b), Education Code, as added by this Act, on a  
18 pilot basis to test the accuracy and predictive validity of the  
19 methods and standards. Pilot statistical methods and standards  
20 developed for use in the 2008-2009 school year are confidential and  
21 not subject to disclosure under Chapter 552, Government Code.  
22 Without releasing the pilot statistical methods, the commissioner  
23 of education shall release the results of any investigation  
24 conducted on the basis of those methods during the 2008-2009 school  
25 year on completion of the investigation.

26 SECTION 19. This Act takes effect September 1, 2007.